

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1062

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-1-4-1 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **Subject to subsection (b), if**
an indigent person: ~~desiring~~

(1) **desires** to appeal to the supreme court or the court of appeals
from the decision of ~~any circuit a trial court or criminal court~~ in
a criminal ~~cases; case;~~ and

(2) **does** not ~~having~~ **have** sufficient means to procure the
~~longhand typed or printed~~ manuscript or transcript of the
evidence taken in ~~shorthand;~~ by the ~~order or permission of any~~
court **reporter;**

the court shall direct the ~~shorthand~~ **court** reporter to transcribe the
~~shorthand~~ notes of evidence into ~~longhand;~~ **a typed or printed**
manuscript or transcript as soon as practicable and deliver the ~~same~~
manuscript or transcript to the indigent person. ~~However~~

(b) **Notwithstanding subsection (a):**

(1) the court must be satisfied that the indigent person ~~has not~~
lacks sufficient means to pay the **court** reporter for making the
~~longhand~~ manuscript or transcript of evidence; and

(2) the reporter may charge ~~such the~~ compensation ~~as is~~ allowed
by law in ~~such~~ cases for making and furnishing a ~~longhand~~
manuscript ~~which service of or transcript~~. The reporter shall be

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paid by the court out of the proper county treasury.

SECTION 2. IC 33-2.1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a) Subject to section 3 of this chapter**, the commission on judicial qualifications created by Article 7, Section 9 of the Constitution of **the State of Indiana** ~~shall be~~ **is** the commission on judicial qualifications for judges of ~~superior and probate trial courts. in certain counties as set forth in section 3 of this chapter. and~~ The members of the commission on judicial qualifications for the court of appeals and ~~the~~ supreme court ~~shall serve as~~ **are** the members of the commission on judicial qualifications for judges of ~~superior and probate the trial~~ courts.

(b) The definitions to be used in the operation of the commission on judicial qualifications **for trial courts** shall be the same as those definitions used for the commission on judicial qualifications for the supreme court and court of appeals. ~~Provided that,~~ **However**, the term "judge" ~~shall mean~~ **means** a judge of a ~~superior or probate trial~~ court.

SECTION 3. IC 33-2.1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** The commission on judicial qualifications ~~created pursuant to~~ **described in** section 2 of this chapter shall exercise disciplinary jurisdiction over judges of ~~superior and probate trial courts. Provided That,~~

(b) ~~In any a county of this state where in which~~ a commission on judicial qualifications ~~was in operation by virtue of law operated before July 26, 1973, the county commission on judicial qualifications shall cease to may not exercise disciplinary jurisdiction concerning over the county courts, of any such county and such jurisdiction shall be exercised by the commission on judicial qualifications created pursuant to section 2 of this chapter. Provided However That, wherever described in Article 7, Section 9 of the Constitution of the State of Indiana shall exercise disciplinary jurisdiction. However, if the law creating a county commission on judicial qualifications in any a county of this state before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities due to the fact that said because the judges are selected by a merit selection system, said the judges shall continue to be are precluded from such participation as if such activity were grounds for removal pursuant to this chapter; and Provided Further That, the participating in political activities.~~

(c) ~~The operation and function of a judicial nominating commissions in operation commission operating in any a county of this state by virtue of law before July 26, 1973, shall is not be in any way affected in their operation or function: by this chapter.~~



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SECTION 4. IC 33-11.6-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Each division of the small claims court ~~shall~~ **must** be a full-time division or a part-time division as ~~the individual determined by the township boards shall determine~~ **board** following ~~the a~~ hearing ~~provided for in~~ **conducted under** section 3 of this chapter.

SECTION 5. IC 33-11.6-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~In the year 1975, A~~ hearing ~~was~~ **must be** conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public ~~on the question of concerning:~~

- (1) whether a small claims court division should be established **or abolished** in the township, ~~in each if the township with~~ **has** a population of less than fifteen thousand (15,000) persons; ~~and~~
- (2) whether the **small claims court** division should be full time or part time;
- (3) the location of the **small claims court** division courtroom and offices; and
- (4) other relevant matters.

SECTION 6. IC 33-11.6-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~Within~~ **Not more than two (2) weeks following after** a hearing ~~is held pursuant to under~~ section 3 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order ~~as to~~ **concerning:**

- (1) whether a small claims court division shall be established **or abolished** in the township, ~~if such the township has~~ a population of less than fifteen thousand (15,000) persons;
- (2) whether the **small claims court** division, if any, shall function full time or part time;
- (3) the location of the **small claims court** division courtroom and offices ~~pursuant to under~~ IC 33-11.6-8-1; and
- (4) other relevant matters.

SECTION 7. IC 33-14-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Prosecuting attorneys and ~~their deputies~~ **deputy prosecuting attorneys shall be entitled to** receive ~~for their services~~ the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) **Upon the allowance of an itemized and verified claim by the**

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board of county commissioners, the auditor of the county shall issue a warrant to the prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of ~~a~~ the prosecuting attorney or a deputy prosecuting attorney that exceeds the amount if ~~any~~; that the state is to pay. ~~shall be paid upon a~~ ~~duly itemized and verified claim; filed as required by law; and by~~ warrant issued by the auditor of the county; payable to the respective prosecuting attorney or deputy; upon allowance of such claim by the board of county commissioners. It is a Class B misdemeanor for

(c) A deputy to prosecuting attorney who knowingly ~~divide~~ ~~divides~~ compensation with the prosecuting attorney or any other officer or person in connection with ~~such~~ the deputy prosecuting attorney's employment ~~or for the~~ commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person to accept any ~~such~~ who knowingly accepts the deputy prosecuting attorney's division of compensation described in subsection (c) commits a Class B misdemeanor.

~~(b)~~ (e) The attorney general of the state shall call at least one (1) and not to exceed more than two (2) conferences of the ~~several~~ prosecuting attorneys each year for the purpose of considering; discussing; and developing to consider, discuss, and develop coordinated plans for the enforcement of the traffic and other laws of this state: Indiana. The date or dates upon which ~~such~~ the conferences ~~shall be~~ are held shall be fixed by the attorney general. The expenses necessarily incurred by any ~~such~~ a prosecuting attorney in attending any ~~such~~ a conference held under this subsection, including the actual expense of transportation to and from the place where ~~such~~ the conference is held, together with his meals and lodging, shall be paid from the general fund of the county upon the presentation of a ~~duly~~ ~~an~~ itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there ~~be~~ is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of under this subsection shall be paid from the general fund of the respective counties constituting ~~such~~ the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

SECTION 8. IC 33-15-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) ~~For the purpose of facilitating and expediting~~ To facilitate and expedite the trial of causes, the judge of each circuit, ~~criminal~~; superior, probate, and juvenile court of each ~~and every~~ county of this state shall appoint an

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official reporter. ~~whose duty it shall be, whenever~~

(b) The official reporter shall, when required by such the recorder's appointing judge, to do the following:

(1) Be promptly present in ~~said the appointing judge's court, and to take down in shorthand~~

(2) Record the oral evidence given in all causes **by any approved method**, including both questions and answers. ~~and to~~

(3) Note all rulings of the judge ~~in respect to~~ **concerning** the admission and rejection of evidence and the objections and exceptions ~~thereto, and to the admission and rejection of evidence.~~

(4) Write out the instructions of the court in jury trials.

~~(b)~~ **(c)** In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

(1) shall report the proceedings of the juvenile court as part of ~~his the reporter's~~ duties as reporter of the circuit or probate court; and

(2) except as provided in subsection ~~(c)~~, ~~such reporter shall~~ **(d), may not** receive ~~no~~ additional compensation for ~~his the reporter's~~ services for reporting the proceedings of the juvenile court.

~~(c)~~ **(d)** In counties ~~wherein in which:~~

(1) a circuit court has juvenile jurisdiction; ~~and wherein~~

(2) there is a juvenile referee; and

(3) the circuit judge is the judge of the juvenile court;

the salary of the juvenile court reporter ~~shall be~~ **is** one hundred and twenty-five dollars (\$125) per month ~~which shall be~~ in addition to any compensation ~~such the reporter may receive~~ **receives** as reporter of the circuit court.

~~(d)~~ **(e)** The official reporters of juvenile courts shall:

(1) be paid the same amount for their services and in the same manner;

(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than two hundred fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom ~~shall be~~ **entitled to** receive a salary of ~~not less than~~ **at least** three hundred dollars (\$300) per month.

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SECTION 9. IC 33-15-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~Whenever, in any cause, such~~ (a) **If requested to do so, an official** reporter shall ~~be requested to do so, he shall~~ furnish to either party **in a case** a transcript of all or any part of ~~said the~~ proceedings required by ~~him the~~ reporter to be taken or noted, including all documentary evidence. ~~and it~~

(b) **An official reporter shall be his duty to furnish the same written in a plain legible longhand or typewriting a typewritten or printed transcript described in subsection (a) as soon as practicable** after being requested to do so. ~~as practicable, and he~~

(c) **The reporter shall certify that it the transcript** contains all the evidence given in the ~~cause. Provided, That case.~~

(d) The reporter:

(1) may require payment for ~~such a~~ transcript **furnished under this section; or**

(2) **may require** that the ~~same~~ payment be satisfactorily secured; before ~~he the~~ reporter proceeds to do the **required** work. ~~required of him.~~

SECTION 10. IC 33-19-6.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.5. (a) **A payment made under this chapter does not finally discharge a person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.**

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a credit card service fee equal to the vendor transaction charge or discount fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

SECTION 11. IC 35-33-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. **In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-37-6.**

SECTION 12. IC 35-33-9-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2004]: **Sec. 8. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-37-6.**

SECTION 13. IC 33-34-1-6, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. A division of the small claims court must be a full-time division or a part-time division as determined by the individual township boards following ~~the a~~ hearing ~~provided for in~~ **conducted under** section 7 of this chapter.

SECTION 14. IC 33-34-1-7, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~In 1975,~~ A hearing ~~was~~ **must be** conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public ~~on the question of concerning:~~

- (1) whether a small claims court division should be established **or abolished** in the township, ~~in each if the township with~~ has a population of less than fifteen thousand (15,000) persons;
- (2) whether the **small claims court** division should be full time or part time;
- (3) the location of the **small claims court** division courtroom and offices; and
- (4) other relevant matters.

SECTION 15. IC 33-34-1-9, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. Not more than two (2) weeks ~~following after~~ a hearing ~~held is~~ **conducted** under section 7 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order ~~as to:~~ **concerning:**

- (1) whether a small claims court division shall be established **or abolished** in the township if the township has a population of less than fifteen thousand (15,000) persons;
- (2) whether the **small claims court** division, if any, shall function full time or part time;
- (3) the location of the **small claims court** division courtroom and offices under IC 33-34-6-1; and
- (4) other relevant matters.

SECTION 16. IC 33-37-6-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution

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responsible for making the payment or credit.

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk ~~may or shall~~ **shall** collect a credit card service fee **equal to the vendor transaction charge or discount fee** from the person using the bank or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

SECTION 17. IC 33-38-14-8, AS ADDED BY SEA 263-2004, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **Subject to section 9 of this chapter**, the commission is the commission on judicial qualifications for judges of ~~superior and probate trial courts. in the counties described in section 9 of this chapter.~~ The members of the commission on judicial qualifications for the court of appeals and the supreme court are the members of the commission on judicial qualifications for judges of the ~~superior and probate trial courts.~~

SECTION 18. IC 33-38-14-9, AS ADDED BY SEA 263-2004, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The commission shall exercise disciplinary jurisdiction over judges **of trial courts.**

(b) In a county in which a commission on judicial qualifications operated by virtue of law before July 26, 1973, the county commission on judicial qualifications ceases to exercise disciplinary jurisdiction over the county courts and the commission shall exercise disciplinary jurisdiction. However, if the law creating a county commission on judicial qualifications in a county before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities because the judges are selected by a merit system, the judges are precluded from participating in political activities.

(c) The operation and function of a judicial nominating commission operating in a county by virtue of law before July 26, 1973, is not affected by this chapter.

SECTION 19. IC 33-39-6-1, AS ADDED BY SEA 263-2004, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Prosecuting attorneys and deputy prosecuting attorneys are entitled to receive the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be

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paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to a prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a prosecuting attorney or a deputy prosecuting attorney that exceeds the amount that the state is to pay.

(c) A deputy prosecuting attorney who knowingly divides compensation with the prosecuting attorney or any other officer or person in connection with employment commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person who **knowingly** accepts any division of compensation described in subsection (c) commits a Class B misdemeanor.

(e) The attorney general shall call at least one (1) and not more than two (2) conferences of the prosecuting attorneys, each year, to consider, discuss, and develop coordinated plans for the enforcement of the laws of Indiana. The date or dates upon which the conferences are held shall be fixed by the attorney general. The expenses necessarily incurred by a prosecuting attorney in attending a conference, including the actual expense of transportation to and from the place where the conference is held, together with meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of this subsection shall be paid from the general fund of the respective counties constituting the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

SECTION 20. IC 33-40-8-5, AS ADDED BY SEA 263-2004, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **(a) Subject to subsection (b), if** an indigent person: ~~desiring~~

(1) desires to appeal to the supreme court or the court of appeals the decision of a ~~circuit court or criminal trial~~ court in **a** criminal ~~cases, case;~~ and

(2) does not ~~having~~ **have** sufficient means to procure the ~~longhand typed or printed~~ manuscript or transcript of the evidence taken ~~in shorthand;~~ by the ~~order or permission of any~~ court **reporter;**

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the court shall direct the ~~shorthand~~ **court** reporter to transcribe the ~~shorthand~~ notes of evidence into ~~longhand~~, **a typed or printed manuscript or transcript** as soon as practicable and deliver the ~~longhand~~ manuscript or transcript to the indigent person. ~~However,~~

(b) Notwithstanding subsection (a):

- (1) the court must be satisfied that the indigent person lacks sufficient means to pay the **court** reporter for making the ~~longhand~~ manuscript or transcript of evidence; and
- (2) the **court** reporter may charge the compensation allowed by law in cases for making and furnishing a ~~longhand~~ manuscript ~~which service of or transcript~~. The reporter shall be paid by the court from the proper county treasury.

SECTION 21. IC 33-41-1-1, AS ADDED BY SEA 263-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) To facilitate and expedite the trial of causes, the judge of each circuit, ~~criminal~~, superior, probate, and juvenile court of each county shall appoint an official reporter.

(b) The official reporter shall, when required by the recorder's appointing judge, do the following:

- (1) Be promptly present in the appointing judge's court.
- (2) Record the oral evidence given in all causes **by any approved method**, including both questions and answers.
- (3) Note all rulings of the judge concerning the admission and rejection of evidence and the objections and exceptions to the admission and rejection of evidence.
- (4) Write out the instructions of the court in jury trials.

(c) In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

- (1) shall report the proceedings of the juvenile court as part of the reporter's duties as reporter of the circuit or probate court; and
- (2) except as provided in subsection (d), may not receive additional compensation for the reporter's services for reporting the proceedings of the juvenile court.

(d) In counties in which a circuit court has juvenile jurisdiction and where there is a juvenile referee and the circuit judge is the judge of the juvenile court, the salary of the juvenile court reporter is one hundred twenty-five dollars (\$125) per month in addition to any compensation the reporter receives as reporter of the circuit court.

(e) The official reporters of juvenile courts shall:

- (1) be paid the same amount for their services and in the same manner;

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(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than two hundred fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom is entitled to receive a salary of at least three hundred dollars (\$300) per month.

SECTION 22. IC 33-41-1-5, AS ADDED BY SEA 263-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If requested to do so, an official reporter shall furnish to either party in a cause a transcript of all or any part of the proceedings required by the reporter to be taken or noted, including all documentary evidence.

(b) An official reporter shall furnish ~~the~~ **a typewritten or printed** transcript described in subsection (a) ~~written in a plain legible longhand or typewriting~~ as soon after being requested to do so as practicable.

(c) The reporter shall certify that the transcript contains all the evidence given in the cause.

(d) The reporter may require payment for a transcript, or that the payment be satisfactorily secured, before the reporter proceeds to do the required work.

SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 33-19-6.5-2; IC 35-33-8-9; IC 35-33-9-7.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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HEA 1062 — Concur+

